

MOTION FILED

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Supreme Court of the United States

October Term, 1962

No. 119

WILLIAM J. MURRAY, III, Infant, etc., *et al.*,
Petitioners,
against

JOHN N. CURLETT, *et al.* and BOARD OF SCHOOL
COMMISSIONERS OF BALTIMORE CITY,
Respondents.

No. 142

SCHOOL DISTRICT OF ABINGTON TOWNSHIP, *et al.*,
Appellants,
against

EDWARD LEWIS SCHEMPP, *et al.*,
Respondents.

MOTION BY THE AMERICAN JEWISH COMMITTEE
AND THE ANTI-DEFAMATION LEAGUE OF B'NAI
B'RITH FOR LEAVE TO FILE A JOINT BRIEF AS
AMICI CURIAE

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AMICI CURIÆ**

The undersigned, as counsel for the American Jewish Committee and the Anti-Defamation League of B'nai B'rith respectfully move this Court for leave to file a joint brief as *amici curiae* in both above entitled cases.

The American Jewish Committee, founded in 1906, was incorporated by Act of the Legislature of the State of New York in 1911. Its Charter states:

The objects of this corporation shall be, to prevent the infraction of the civil and religious rights of Jews, in any part of the world; to render all lawful assistance and to take appropriate remedial action in the event of threatened or actual invasion or restriction of such rights, or of unfavorable discrimination with respect thereto . . .

B'nai B'rith, founded in 1843, is the oldest civic service organization of American Jews, which represents a membership of more than 350,000 men and women and their families. The Anti-Defamation League was organized in 1913 as a section of the parent organization to advance goodwill and proper understanding between Americans and translate into greater effectiveness the ideals of American democracy. It is, therefore, dedicated to the protection of freedom of religion and combatting religious discrimination.

It has been among the fundamental tenets of the organizations which seek permission to appear as *amici curiae* herein that the welfare and the security of members of minority religious groups in the United States depend upon the preservation of constitutional guarantees for all; and that an invasion of the rights of any religious group is ultimately a threat to the religious freedom of all groups and to the individual members thereof.

It was in furtherance of this interest and belief that the movants herein participated as *amici curiae* in a num-

ber of cases before this Court bearing on church-state issues, including *McCollum v. Board of Education*, 333 U. S. 203 (1948); *Gallagher v. Crown Kosher Super Market*, 366 U. S. 617 (1961); *Torcaso v. Watkins*, 367 U. S. 486 (1961); and *Engel v. Vitale*, 370 U. S. 421 (1962). In the last mentioned case this Court, upon motion by the American Jewish Committee and Anti-Defamation League of B'nai B'rith, granted permission to file a joint brief as *amici curiae* in *Engel v. Vitale*, 368 U. S. 982.

These cases place in issue the constitutionality under the First and Fourteenth Amendments of Bible reading and the recitation of the Lord's Prayer as part of the daily opening exercises in public schools in Maryland and Pennsylvania. While the constituencies of both of the *amici* include vast numbers of people who not only believe in the existence of God but devoutly worship Him, we believe that religious exercises and activities in our democratic society are matters for the home, synagogue and church, and not for the public schools. We wholeheartedly support the principle of separation of church and state as expressed in the First Amendment to the United States Constitution and interpreted by this Court, for the greater independence and strength of both those institutions. As organizations of persons professing a minority religious faith, we are particularly concerned with religious practices in the public schools which are consonant with and reflect the religious beliefs of the majority.

The questions presented by both cases are of great public interest. These are not merely disputes between private parties seeking to resolve their differences by litigation. The decisions in these cases may establish prece-

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ents which would affect religious practices in the public schools throughout the country. The movants herein have nation-wide constituencies whose children attend the public schools. We believe that those for whom we speak—a substantial segment of a minority religious group—should be permitted to present their arguments in these important cases to assist this Court in resolving the issues.

If permission to file a brief as *amici curiae* is granted, we will confine our argument to the question of why the religious exercises involved in these cases are viewed by our constituencies as an establishment of religion in violation of the First Amendment and a denial of the equal protection of the laws in violation of the Fourteenth Amendment.

Our brief will show that the Bible, one part of which—the Old Testament—was given to the world by Judaism, now exists in several versions, each of which gives the Book a sectarian character, making it acceptable to one group and not to others. Similarly, the Lord's Prayer, which Jesus may have based upon Jewish sources, has become exclusively a Christian prayer.

Our brief will also argue that permitting the excuse of pupils whose parents object to their participation in the school-sponsored religious exercises, does not serve to free such exercises from the limitations of the establishment clause.

The attorneys for the petitioners below, who challenged the religious practices in the public schools here involved, have consented to our submitting a joint brief as *amici curiae* in both cases. So too have the Attorneys General of the State of Maryland and the Commonwealth of Penn-

sylvania. This motion is necessary because the attorneys for the respective boards of education, which defend the constitutionality of the practices here challenged, have advised us that they would neither consent nor object to our filing briefs *amici curiae*. This response no doubt reflects the recognition by the school boards that the issues in these cases are of great public moment and that the boards as public bodies should not obstruct organizations which also are concerned with the role of public education in our society from presenting their views to this Court.

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